

FILED

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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HOMAR BARRON; MARGUERITE
BARRON,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74513

Agency Nos. A78-665-203
A78-665-204

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Homar Barron and his wife, Marguerite Barron, natives and citizens of
Mexico, petition for review of the Board of Immigration Appeals' ("BIA")

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

decision affirming an immigration judge's order denying their applications for cancellation of removal. We dismiss the petition for review.

We lack jurisdiction to consider the Petitioners' due process challenge to the denial of their request for voluntary departure because it was not exhausted with the BIA. *See Sanchez-Cruz v. INS*, 255 F.3d 775, 780 (9th Cir. 2001) (indicating that due process claims raising correctable procedural errors must be exhausted before the BIA).

We also lack jurisdiction to review the BIA's denial of the Petitioners' cancellation of removal applications for failure to demonstrate the requisite hardship. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003). We decline to consider whether the BIA properly determined that Petitioners failed to establish ten years of continuous physical presence because their failure to establish the requisite hardship is dispositive. *See* 8 U.S.C. § 1229b(b)(1); *Romero-Torres*, 327 F.3d at 889 (an applicant must establish continuous physical presence, good moral character and hardship to qualify for relief).

PETITION FOR REVIEW DISMISSED